

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Annie De Las Nueses	Team: Team # 8	CCRB Case #: 200310204	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 12/21/2003 4:00 AM	Location of Incident: 1854 Westchester Ave	Precinct: 43	18 Mo. SOL 6/21/2005	EO SOL 6/21/2005	
Date/Time CV Reported Sun, 12/21/2003 7:40 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/23/2003 2:12 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Angel Romero	23651	916595	043 PCT
2. SGT Jay Santana	04356	904993	043 PCT
3. POM Raymond Laschet	23204	924055	043 PCT
4. SGT Thomas Milano	05618	918001	043 PCT
5. POM William Falk	03455	920994	ESU
6. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Korabel	27035	925558	043rd PCT
2. POM Eric Harsch	30956	891611	043 PCT
3. POM Sean Odwyer	18223	922905	043 PCT
4. POM Michael Ortiz	23013	917399	043 PCT
5. POM Nathaniel Anthony	03172	923516	043 PCT
6. POF Jessica Torres	07854	927603	043 PCT
7. POM Luis Mendez	29448	928773	043 PCT
8. DTS Walter Szachacz	05005	909475	ESU
9. POM Alfred Gallicchio	18853	921359	043 PCT
10. POM Robert Peterson	22244	921677	043 PCT
11. POM James Jacobberger	00501	921438	043 PCT
12. POM Edward Kottl	25450	916020	043 PCT
13. POM Max Gonzalez	14038	906364	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jay Santana	Force: Sgt. Jay Santana used physical force against § 87(2)(b)	
B. Officers	Force: An officer used a chokehold against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D.POM Angel Romero	Force: PO Angel Romero used physical force against § 87(2)(b)	
E.POM William Falk	Force: PO William Falk tasered § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	
G. Officers	Force: An officer struck § 87(2)(b) with a blunt instrument.	
H.POM Raymond Laschet	Force: PO Raymond Laschet used physical force against § 87(2)(b)	
I.SGT Thomas Milano	Off. Language: Sgt. Thomas Milano made remarks to § 87(2)(b) and § 87(2)(b) based upon ethnicity.	
J.SGT Thomas Milano	Discourtesy: Sgt. Thomas Milano acted rudely toward § 87(2)(b)	
K.SGT Thomas Milano	Abuse: Thomas Milano strip-searched § 87(2)(b)	

## Synopsis

Officers approached § 87(2)(b) in the street after receiving 911 calls that he had assaulted his wife, § 87(2)(b) inside a nightclub. When § 87(2)(b) resisted arrest, officers punched him, put him in a chokehold, tackled him to the ground and tasered him. Officers also used physical force against his wife and a friend, § 87(2)(b) who tried to intervene. At the precinct, the desk sergeant made offensive remarks to the couple, acted discourteously towards § 87(2)(b) and directed him to be strip-searched.

§ 87(2)(g)

## Summary of Complaint

On December 21, 2003 at 7:40 AM, § 87(2)(b) called Internal Affairs to report that his sister, § 87(2)(b) and her husband had been "beaten" by officers after an altercation at a nightclub. § 87(2)(b) had facial bruises and her husband sustained a broken jaw (enc. 8a-e). Because § 87(2)(b) did not witness the incident, he was not interviewed.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-old Hispanic female who is 5'5" tall and weighs 160 pounds. In the police reports she is referred to as § 87(2)(b) or § 87(2)(b). However, for consistency's sake, she will be referred to as § 87(2)(b) in this report. § 87(2)(b) first statement about this incident was recorded in a Medical Treatment of Prisoner report in which she indicated that she had trouble breathing but refused medical assistance (enc. 11a). § 87(2)(b) provided a statement to the IAB investigators at 0900 hours on December 21, 2003 and a statement to CCRB on February 5, 2004. § 87(2)(g)

In the early hours of December 21, 2003 § 87(2)(b) and her husband, § 87(2)(b) were at a Bronx nightclub, Riddlers. In her IAB statement she indicated they each had had two drinks when they started fighting. Her husband took a swing at her but missed. A bouncer escorted her outside to separate them and said they'd both have to leave. However, she told CCRB they were both "tipsy" and she had had at least five mixed drinks while her husband had been drinking cognac and juice the whole evening. About 3:30 am he grabbed her arm and said they had to leave. A bouncer approached her and said she should stay because he had seen "everything."

She told IAB that she walked out with two friends and her husband followed screaming at her. One block later, her husband caught up to her and they started arguing again. Moments later, a patrol vehicle pulled up behind them. Two officers, a tall black male and a short Hispanic female, ran towards them, and § 87(2)(b) threw herself on the wall saying-"Just get him away from me" § 87(2)(b) had his hands in her face and was yelling at her. An officer approached § 87(2)(b) and ordered him to move away from her. Suddenly, the officer started hitting him and punched him in the face, telling him to "get the fuck down on the floor". She told CCRB investigators that she and § 87(2)(b) left the club "arm in arm" accompanied by their friend § 87(2)(b). Less than 2 blocks from the club, two officers exited a patrol car; the male officer, PO1, approached § 87(2)(b) and threw him against a gate or wall (**allegation A**) while the female officer repeatedly asked § 87(2)(b) if she had called 911 about her husband's beating her. § 87(2)(b) was frustrated by the questions and responded that it was another couple who had been fighting.

In the IAB interview, she stated that § 87(2)(b) fell down and the officer continued hitting him. Then a number of officers handcuffed him. An officer then placed his foot on top of § 87(2)(b) and called for back up. § 87(2)(b) admitted that at the time, § 87(2)(b) was still trying to get up. Outraged that her husband was being "abused", § 87(2)(b) tried to intervene. An officer told her to "shut the fuck up" and move away but § 87(2)(b) disregarded the order. Although the female officer had her by the coat, § 87(2)(b) was able to wiggle out of it. The female officer started hitting her repeatedly on her head and eventually handcuffed her. The officer caused a small cut on the back of § 87(2)(b) head. In her CCRB interview she claimed she observed her husband as he was facing the gate with one hand on the fence and the other in the air with PO1 behind him. § 87(2)(b) asked why he was being arrested and turned his head around towards the officer. The officer replied that he § 87(2)(b) knew. When § 87(2)(b) tried to step towards her husband, PO2 used her forearm to push § 87(2)(b) back. PO2, the female officer, pushed § 87(2)(b) so hard that she was bruised across her chest (**allegation F**). When an officer placed a handcuff on § 87(2)(b) s left hand, he said he was not going to give his hand until the officer told him why he was being arrested. PO1 began

punching § 87(2)(b)'s free hand with a closed fist (**allegation C**). § 87(2)(b) also saw the officer hit § 87(2)(b) in the back of the head at least three or four times and hit him in the leg. Before she realized it, her husband was on the ground and several officers were all around (**allegation C**). She and the female officer stood about 15 feet from her husband. When she tried to shove past PO1 to get to her husband, PO1 slapped § 87(2)(b) in the face (**allegation F**). She did not recall hitting the officer back. The next thing she recalled was having many officers on top of her. § 87(2)(b) did not remember being struck by anything, but she was knocked unconscious.

She told IAB investigators that when she was brought to the precinct, she refused medical attention. Her CCRB statement was more detailed. When she woke up in a holding cell, a female paramedic was standing in front of the cell. § 87(2)(b) had an asthma attack and couldn't breathe. She felt a very tender spot on the right side of her head and felt dried blood, a lump and a gash. The paramedic's response was to relax and that if she went to the hospital her processing would be delayed. § 87(2)(b) agreed but insisted on being treated. The EMT provided no medical treatment. After she left, § 87(2)(b) began yelling out from the cell that she "needed to go to the hospital." Sgt. Milano who was nearby, yelled back-"Fuck you, you aren't going anywhere". Throughout her incarceration, Sgt. Milano made other offensive remarks when she asked for medical treatment to make a phone call or complain about her rights being violated. He called her "fucking stupid," "a fucking spic," and a "fucking bitch - you don't deserve a phone call" (**allegation I**).

After the incident, § 87(2)(b) discovered that her friend, § 87(2)(b) and her date were the actual couple that had been fighting. § 87(2)(b) resembles her and was wearing similar clothes the night of the incident. § 87(2)(b)'s date and § 87(2)(b) also look alike. § 87(2)(b) was not injured and § 87(2)(b) believed that it was § 87(2)(b) that assaulted her boyfriend and not the other way around. Lastly, § 87(2)(b) was able to identify Sgt. Milano and PO Romero, who had fingerprinted her, by looking at their names on their badges. At the time of the interview the investigator observed an inch long scar on § 87(2)(b) head. The scar was about 1/8" wide and was located on the right front side of her head. A photograph was taken of this injury (enc. 45b).

On May 14, 2004 § 87(2)(b) made additional statements (enc. 14 a-b). She received the gash on her head from an officer's baton, and not a bottle wielded by her husband (**allegation G**). She indicated that § 87(2)(b) is in a shelter and she has no contact information for her. She agreed to view officer photos but had to check her schedule before committing to an appointment. She also acknowledged that officers had executed a search warrant at her residence on March 23, 2004 and seized cocaine, pot and firearms. Although an officer had grabbed her by the hair and slammed § 87(2)(b) with their shields, she did not want to file a complaint. On April 10, 2004 officers arrested § 87(2)(b) for beating her "badly." They took photos of her blood-spattered face and bathroom walls. She and § 87(2)(b) were in the process of obtaining a divorce.

On June 7, 2004 § 87(2)(b) refused to view photos, stating that her attorney had directed her to not make any more statements. She refused to provide the name of her attorney. Between June 22, 2004 and January 14, 2005 the investigator sent her and her brother 2 please calls letters each and made 8 phone calls in an attempt to show her photos. She never responded.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-old Male Hispanic § 87(2)(b) who is 5'10" and weighs 170 pounds. Emergency Medical Services arrived at the 043rd Precinct at 0412 hours and provided medical treatment to § 87(2)(b) prior to transporting him to § 87(2)(b) (15 a-c). His major complaint was listed as "my face is hurting". It was noted that § 87(2)(b) was found standing and complaining of pain to the right side of his face. § 87(2)(b) told the technician that he was hit in the face and broke his tooth. He complained of pain to the right leg and jaw. In the medical Treatment of Prisoner report he also complained of pain to his face (enc. 15a). At the hospital he stated that he had been hit by a police baton (enc. 15c).

§ 87(2)(b) was interviewed by Internal Affairs at 0930 hours (enc. 16 a-d) on December 21, 2003 and by CCRB investigators on February 5, 2004. § 87(2)(g) He told IAB investigators that when a fight suddenly broke out in the club, he and § 87(2)(b) left and walked a short distance before being stopped by police. They each had had at least two drinks; he was intoxicated and he and his wife were arguing and talking loudly. PO1, a white male, about 5'9" tall with brownish hair, came from behind and ordered him to put his hands on the gate, which he did. When he turned his head to ask what he was being arrested for, the officer put him in a chokehold. PO2, a white male who was balding, punched him in the jaw causing him to fall. After he fell to the ground, PO2 pulled on his handcuff chain and kned him in the head several times. He was then tasered in the leg and hand. In his CCRB interview he indicated that he and his wife, were "slightly intoxicated" but not fighting when they decided to leave the club. A few blocks away, two officers approached him and asked him to get against a wall (**allegation A**). PO1, a white male who was about 5'8" tall and weighed 200 pounds, had already placed one handcuff on § 87(2)(b) when § 87(2)(b) kept insisting to know why he was being arrested. PO1 placed him in a chokehold (**allegation B**). As § 87(2)(b) was falling to the ground, PO2, a tall black male officer, punched him in the jaw with a closed fist (**allegation C**). This blow caused his tooth to crack. PO1 punched § 87(2)(b)'s arm to make him release his hold on the gate. § 87(2)(b)

§ 87(2)(b) fell on the ground but tried to stand up. PO1 then straddled his back, pulled on the chains of his cuffs and kned him in the head (**allegation D**). While the officer was on top of him, he felt a warm sensation, and then several zaps of electricity (**allegation E**).

He told IAB that when his wife objected to his treatment, a short Hispanic officer punched her at least three times in the face and another white officer forced her to the ground. In the CCRB interview he stated that when the black officer hit him, § 87(2)(b) got very upset and was thrown on the wall by the female officer. § 87(2)(b) also stated that he was able to observe the female officer smack his wife in the face (**allegation F**). Apparently, § 87(2)(b) was very intoxicated and the blow seemed to make her disoriented. Before slapping her the female officer was asking her to "say that you called", but § 87(2)(b) was saying, "If I called on him why would I walk with him?" He did not recall when the additional officers had arrived, but saw four additional patrol vehicles at the scene. One tall, bald white police officer then took out either a baton or a flashlight and hit § 87(2)(b) over the head with it (**allegation G**). It knocked his wife out and she fell to the ground.

He also provided CCRB with additional details and allegations that he did not include in his IAB interview. § 87(2)(b) intervened but an officer told him to get "the fuck outta here." Shortly thereafter § 87(2)(b) was tackled and arrested (**allegation H**).

He advised IAB that at the precinct, Sgt. Milano referred to him as a "drunken spic." He told CCRB that the desk officer, Sgt. Milano, called him a "dumb spic" (**allegation I**). He was then taken in the back to be strip searched (**allegation K**) Sgt. Milano took § 87(2)(b)'s tooth chip out of his pocket, dropped it on the floor, kicked it and said it was, "garbage, just a paint chip" (**allegation J**).

On February 11, 2005 and February 22, CCRB sent § 87(2)(b) two letters to schedule an appointment to view photos. The first letter was returned as undeliverable at § 87(2)(b). The phone number § 87(2)(b) provided on his most recent arrest record was called; the subscriber was an Exxon Gas station and § 87(2)(b) was unknown. Finally, in response to a subpoena, Verizon indicated they had no telephone listing for § 87(2)(b) at his most recent address, § 87(2)(b). A search of local index databases did not produce a more recent address.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-old Hispanic male who is 5'8" tall and weighs 160 pounds.

He provided a statement to Internal Affairs at the precinct at 1000 hours (enc. 18 a-c) on November 21, 2003 and to CCRB on February 5, 2004. He told IAB that he was still drunk at the time of the IAB interview. At the club § 87(2)(b)'s wife started dancing with another guy and he became very upset, but § 87(2)(b) denied that § 87(2)(b) struck § 87(2)(b). They left the club and on the next block the police came and harassed them. An officer approached § 87(2)(b) pushed him onto a fence, and put one handcuff on him. § 87(2)(b) approached another officer and asked what the problem was. He was told to get away from the police and as soon as he turned around he was tackled to the ground. An officer got his arm out from underneath him and handcuffed him. § 87(2)(b) alleged that he was hit three times on his back prior to being handcuffed. He also alleged that something shocked him but he didn't see which officer was responsible. He did not see an officer hit § 87(2)(b) but saw an officer hit § 87(2)(b) in the face. He added that neither of them resisted arrest. According to § 87(2)(b) there was an officer that had an "antenna like stick" and hit § 87(2)(b) in the back and then three to four officers got on top of him. § 87(2)(b) did not observe anything further because his hooded sweatshirt was blocking his view. He did not provide descriptions of any of the officers.

He told CCRB investigators, that when they left the club, he needed to lean on something in order to stand up straight. He was walking about five feet away from § 87(2)(b) and § 87(2)(b) when he saw the police pull up behind them. Two male officers approached § 87(2)(b) and asked him to place his hands behind his back. When § 87(2)(b) asked what he had done wrong, an officer repeated the request and simultaneously slapped a handcuff on one of § 87(2)(b)'s hands. The officers had him against a gate and he had one hand on the gate while the other hand was handcuffed. According to § 87(2)(b) this was when the situation became "out of control". The officers started pushing § 87(2)(b) and telling him to free his hands. When § 87(2)(b) approached the officers, one told him to mind his business before he got arrested. § 87(2)(b) turned away from him and was immediately tackled to the ground (**allegation H**). § 87(2)(b)'s hands went straight to his back and he did not resist. He felt an officer straddle his back while another officer held down his lower body. At one point he was able to see that an officer had his forearm around § 87(2)(b)'s neck. When asked how he was able to see, he stated that he caught a glimpse as he was being lifted off the ground and placed into the patrol vehicle. When they were all brought to the precinct, it became clear that a white short sergeant named Milano, had "it in for them, from the moment they walked in". The sergeant claimed that he didn't "want to hear anybody's shit". § 87(2)(b) was placed in the holding pen with § 87(2)(b) and learned that § 87(2)(b)'s tooth was broken.

On February 12, 2005 and February 22, 2005 please call letters were sent to § 87(2)(b) to view photos. Likewise on February 15, 2005 calls were placed to his cell phone and home phone of record. The home phone was out of service and the cell phone was not taking any messages. A Verizon subpoena was returned with no new phone listings.



## Results of Investigation

### 911 Call

On December 21, 2003, at 0320 hours a male at club "Riddler's" called 911. He reported that a male Hispanic, wearing a red and white shirt, with a red baseball hat had stuck his girlfriend in the head with a glass bottle (enc. 43 a-b).

### Officer Testimony

#### Sgt. Santana

Sgt. Santana is a § 87(2)(b)-old Hispanic male who is 5'11" tall and weighs 195 lbs. According to his memo book, he was working with PO Koravel on December 21. At 23:11 they had an arrest. At 12:05 a.m. he resumed patrol and finished his tour at 6:57 am. He prepared an unusual occurrence report noting that at 0320 hours Sgt. Santana, PO Laschet and PO Romero responded to a job regarding a dispute on Westchester Avenue. Sgt. Santana observed an individual later identified as § 87(2)(b) assaulting § 87(2)(b). When the officers attempted to apprehend him, § 87(2)(b) resisted and members of ESU truck 3 had to "stun" him with a "stun gun." His wife became violent, assaulted an officer and was arrested while a friend, § 87(2)(b) attempted to intervene and was arrested.

Sgt. Santana was interviewed at the CCRB on July 6, 2004 (enc. 24 a-e). He was working as the Club Enforcement sergeant with a female officer in an unmarked, black Chevy Impala when they received a radio communication that a male Hispanic was assaulting a female with a bottle. When they arrived at the club, they encountered a small group of patrons, who were smoking cigarettes outside. A patron pointed out the couple and Sgt. Santana observed § 87(2)(b) yelling at § 87(2)(b). It appeared that he was about to assault her again. § 87(2)(b) was stumbling and obviously intoxicated; he was standing over § 87(2)(b) and was pointing down towards her face. The female officer got § 87(2)(b) away from the scene, while Sgt. Santana approached § 87(2)(b) and asked him to put his hands behind his back. At that point § 87(2)(b) stepped towards Sgt. Santana and asked why he was going to arrest her husband. When Sgt. Santana told her to "just step away", § 87(2)(b) interjected and demanded the sergeant not address his wife that way. At that point, the female officer pulled her away. § 87(2)(b) was hanging on to a chain link fence and Sergeant Santana reached for his handcuffs. With his right hand he attempted to get § 87(2)(b)'s hand behind him but he would not comply. Sgt. Santana verbally ordered him to let go of the fence and give up his hands but he refused. Sgt. Santana took out his asp and positioned it between the fence and § 87(2)(b)'s arm to pry his hand from the fence. By then numerous other officers, including PO Romero and at least two other officers were assisting. He denied choking or punching § 87(2)(b) and did not recall if any officer hit him in the face. The officers collectively pulled him off the fence and he and the officers fell to the ground. PO Romero, who was at the bottom of the pile, was injured.

ESU truck 3 which routinely patrols the area, arrived at the scene and one of the officers immediately tasered § 87(2)(b) who by that point was still refusing to give up his hands. After being tasered, § 87(2)(b) gave up his hands and was finally handcuffed. Sgt. Santana denied that PO Romero grabbed § 87(2)(b)'s arms by the chain of the handcuffs and kned him in the head. He maintained that PO Romero only straddled § 87(2)(b) to get his hands behind his back, not to inflict blows. In Sgt. Santana's estimation § 87(2)(b) showed no signs of fatigue and was still unwilling to be arrested until he was tasered. Sgt. Santana couldn't provide testimony regarding the arrests of § 87(2)(b) or § 87(2)(b) because he was fully focused on the arrest of § 87(2)(b). Although § 87(2)(b)'s and § 87(2)(b)'s arrests took place near each other, Sgt. Santana maintained that there was no way § 87(2)(b) had a clear line of vision to observe his wife's arrest. Sgt. Santana also denied that an officer struck § 87(2)(b) with a flashlight or an asp while she was being arrested or while she was interfering with the other arrests. As a supervisor at the scene, he had no recollection of any other officer stating that they utilized a baton or asp in the arrest. Sgt. Santana recalled that at one point, § 87(2)(b) pushed PO O'Dwyer as if to say, "get away from me". Sgt. Santana ordered that she be arrested on the spot, for placing her hands on an officer.

On March 2, 2005, Sgt. Santana was contacted. He identified his female partner as being Xiomara Cruz, who resigned from the NYPD about 7 months earlier.

#### PO Angel Romero

PO Romero is a § 87(2)(b)-old Hispanic male who is 6'1" tall and weighs 217 pounds. He prepared numerous documents relating to this incident. According to his memo book, at 3:30 there were "3 under at Theriot Ave. and Westchester." At 3:35 he went line of duty at § 87(2)(b). He returned to the 43 for arrest processing at 6:15, had an interview with ADA Comwell at 17:25 and finalized the affidavit at 2000. According to the aided report, he sustained injuries to his knees and lower back and neck when trying to place "perp" in custody (enc.

25e). He also prepared an aided report for § 87(2)(b) wherein he indicated she had been punched by her husband (enc. 25j).

He also prepared the complaint report and arrest reports for the three civilians. The complaint states, § 87(2)(a) 160.50

” (enc. 26a). The three arrest reports are a recap of the complaint. He prepared property vouchers for § 87(2)(b) and § 87(2)(b). In addition to the cell phones and batteries on each, § 87(2)(b) was also in possession of a handcuff key (enc. 27b).

PO Romero was interviewed at the CCRB on March 15, 2004 (enc. 28 a-e). He and his partner PO Laschet were assigned to conditions zone enforcement. They received a call of 10-85 (officers need assistance) from Thieriot Avenue and Westchester Avenue and were the third or fourth patrol vehicle to arrive at the scene. He recalled seeing ESU at the scene. As soon as they arrived and stepped out of the RMP, PO Romero saw 5 or 6 officers struggling with § 87(2)(b). He was on the sidewalk, standing upright and fighting with the police. § 87(2)(b) was punching and kicking at the officers, including the ESU officers. They were attempting to subdue § 87(2)(b) and were having a difficult time. The officers were grabbing him by his clothes, but no officer seemed to have a good grip on him. After § 87(2)(b) kicked PO Romero in the back, he grabbed § 87(2)(b)'s legs, which caused him to fall. PO Romero fell on top of § 87(2)(b) and the other officers landed on top of them. PO Romero denied that he or any officer punched § 87(2)(b) or placed him in a chokehold. PO Romero then gave him an order to turn around and place his hands behind his back. Although § 87(2)(b) resisted a bit, he eventually turned around and PO Romero was able to place the handcuffs on him. Despite the fact that ESU was at the scene, PO Romero did not recall if or when § 87(2)(b) was tasered. He alleged that he couldn't have been tasered when he was straddled on him, because he did not feel any voltage. He recalled that § 87(2)(b) was saying, "tell me what I'm being arrested for?" PO Romero claimed that his partner was mostly involved with crowd control. PO Romero was unable to provide significant details regarding the arrest of § 87(2)(b) however he admitted that he processed her arrest and did interact with her at the precinct. He stated that although she seemed to have trouble with her breathing she calmed down. During fingerprinting they had the opportunity to talk "privately". § 87(2)(f), § 87(2)(b)

He denied hearing any negative or discourteous interactions at the precinct between § 87(2)(b) and Sgt. Milano.

#### PO Laschet

PO Raymond Laschet is a § 87(2)(b)-old white male who is 5'9" tall and weighs 195 pounds.

His memo book entry for December 21, 2003, indicated he worked with PO Romero. At 3:10 there was a "10-85 at club at Leland and Westchester Ave., illegible § 87(2)(b) illegible 3 under by PO Romero. 0330 10-84 (arrive at) § 87(2)(b)".

He was interviewed at the CCRB on January 14, 2005 (enc. 29a-e). He and PO Romero were assigned to the midnight conditions in an unmarked black vehicle. In response to a 10-34 (assault) communication, they arrived at Westchester and Leland Avenues and observed numerous sectors at the scene. PO Laschet immediately began doing crowd control; he was unable to recall his partner's role. PO Laschet had been performing crowd control when he encountered a Hispanic male who claimed his friend was being arrested. PO Laschet told him to step back and let the officers handle the arrest. PO Laschet maintained that he gave the male, later identified as § 87(2)(b) several verbal warnings about interfering, but § 87(2)(b) would not comply. At one point he touched the officer on his shoulder, and PO Laschet then grabbed § 87(2)(b) by the arms and said, "I told you how many times to step back". He grabbed him in that location so that he could handcuff him easily. When § 87(2)(b) began flailing his arms, PO Laschet used his upper body strength to bring him down. Both ended up on the ground where § 87(2)(b) continued to struggle. PO Laschet denied that he kicked or punched § 87(2)(b). The entire time § 87(2)(b) was screaming and yelling and he had to be forcefully handcuffed.

§ 87(2)(b)'s demeanor after the arrest was combative. He was placed in a vehicle and transported to the command. PO Laschet was then assigned to escort PO Romero, who had been injured, to the hospital. PO Romero did not assist in any other arrests and was unable to provide testimony regarding those arrests. He was unaware ESU had arrived at the scene and had tasered an individual.

#### PO O'Dwyer

PO O'Dwyer is a § 87(2)(b)-old white male who is 5'8" tall and weighs 180 lbs. He had no memo book entries relating to the incident. PO O'Dwyer was interviewed at the CCRB on March 23, 2004 (enc. 30 a-e). He and PO Harsch were working Sector D. When they arrived, an indeterminate number of officers were struggling on the ground with a



male. He did not observe ESU at the scene. He couldn't provide any details due to the fact they he only concentrated on the female that was trying to intervene in § 87(2)(b)'s arrest.

He did not recall how § 87(2)(b) was intervening or what she was saying, although she seemed intoxicated. She put her hands on his chest and pushed him after he tried to take her away from where her husband was being arrested. When Sgt. Santana observed her touching PO O'Dwyer, he stated "that's it, she's going!" When she struggled and refused to put her hands behind her back, PO Torres and PO Anthony assisted in handcuffing her. No officer struck her over the head or used any other force other than to handcuff her. He did not observe any bleeding from her head and he did not hear her complain of any injury. PO Anthony and PO Torres transported her.

Back at the precinct, PO O'Dwyer filled out a pedigree card. He observed Sgt. Milano and § 87(2)(b) interacting but denied that Sgt. Milano used any discourteous or offensive language.

### **PO Nathaniel Anthony**

PO Anthony is a § 87(2)(b)-old black male who is 6' tall and weighs 225 pounds. He had the following entries in his memo book: "0325 10-85 Threat at Westchester Ave. 0327 transport 1 female to 43 Pct. 0330-1 female out. 0348-98 (resume patrol)

He was interviewed at the CCRB on March 22, 2004 (enc. 31 a-f). PO Anthony was working with PO Torres as sector JK. When they arrived at the scene, PO Anthony observed several officers from his command arresting a Hispanic male. There were at least 10 officers from his command including members of ESU present at the scene. He and his partner started to work on crowd control because the clubs and bars started letting out. § 87(2)(b) was drunk and screaming at the scene, and was near a patrol vehicle. Apparently he did not want to get into the patrol vehicle. PO Anthony claimed that he did not see PO Romero straddled on top of § 87(2)(b) and didn't recall observing § 87(2)(b) being tasered by ESU. PO Anthony had no knowledge that PO Romero was injured at the scene. He stated that at no point in time did he assist with the arrest of § 87(2)(b) or § 87(2)(b). He only observed the "tail end" of § 87(2)(b) arrest. She too was drunk and had been screaming at the officers about her husband's arrest. PO Torres did not push, slap or strike § 87(2)(b). He did not see any officer hit her over the head. He believed she attacked a police officer, possibly PO O'Dwyer. He did not see § 87(2)(b) in an unconscious state and he did not observe any injuries on any of the prisoners. He and another officer (although he forgets whom) transported § 87(2)(b) back to the precinct. § 87(2)(b) was "babbling" in the back seat about just "having a fight" with her husband. She questioned why there were so many officers at the scene and never complained of pain. Upon arriving at the scene, § 87(2)(b) was taken to the desk and there, Sgt. Milano attended to the paperwork. PO Anthony claimed that he didn't stay at the command and that he did not overhear any of the discourteous comments that were allegedly made by the sergeant.

### **PO Torres**

PO Torres is a § 87(2)(b)-old Hispanic female who is 5'1" tall and weighs 165 pounds. She had the following notations in her memo book for December 21, 2003: 0325 back up at Theriot and Westchester 85. 0327 transport 1 female to 43 in regard 0300 female out at the 43 0348 98 (resume patrol) (enc. 32b).

PO Torres was interviewed at CCRB on April 7, 2004 (enc. 32 a-e). She stated that on December 21 she was working with PO Anthony in the JK sector. When PO Torres and her partner arrived at the scene, she observed a Hispanic male being handcuffed. An irate female approached PO O'Dwyer who asked her to move back but she did not comply and pushed him. § 87(2)(b) was loud and screaming, but PO Torres stated that she did not know what she was screaming about. She denied that at any time an officer used physical force against § 87(2)(b) or that any officer used a baton, flashlight or radio to inflict a blow to the head. PO Torres stated that she was unaware of § 87(2)(b) being injured and she denied that § 87(2)(b) explained being hurt by her boyfriend. PO Torres denied that her partner, PO Anthony used force against § 87(2)(b) and she was unable to confirm if he was the only black officer at the scene. Sgt. Santana came from behind and directed her to be arrested. PO Anthony and PO O'Dwyer cuffed her and then PO Torres and PO Anthony escorted her to their patrol vehicle. § 87(2)(b) was arrested after § 87(2)(b). PO Torres saw no ESU officers at the scene.

Back at the precinct, Sgt. Milano asked § 87(2)(b) her name, and PO Torres frisked and searched her at that time. She denied hearing any discourteous language and recalled that § 87(2)(b) was yelling about making a phone call. She also denied hearing § 87(2)(b) ask for medical attention. She stated that § 87(2)(b) screamed at her boyfriend moments later when he was brought in.

## PO Falk

William Falk is a § 87(2)(b)-old white male who is 5'8" tall and weighs 165 pounds. PO Falk completed an ESU taser/stun device report shortly after the incident at 0350 hours (enc. 34 a-d). In the details section, he stated that he observed 43rd Precinct officers attempting to effect a lawful arrest. He described the "perp", identified as § 87(2)(b) as punching and kicking officers. He added that § 87(2)(b) refused to be handcuffed. DT Falk used the taser device once to § 87(2)(b)'s rear leg. An accompanying diagram on the report shows the location of contact (enc. 33a). After § 87(2)(b) fell to the ground he was placed in police custody. ESU supervisor investigation notes show that the officer's use of the device was within "proper guide line". Sgt. Connolly also noted that the use of the device "avoided further assault of police officers". The only memo book entry he had was: 0330: 79 (the ESU case #).

PO Falk was interviewed at the CCRB on April 8, 2004 (enc. 34 a-d). He and Dt. Szachacz were assigned to ESU truck 3 when they happened upon a group of officers struggling with a Hispanic male. He could see that the male was fighting, punching and refusing to be subdued. Nearby, additional officers were dealing with a second individual. However, he did not recognize the arrest photo of § 87(2)(b). After the officers had finally gotten the Hispanic male to the ground, the male put up a significant amount of resistance and refused to be handcuffed. He was still kicking and trying to punch the officers. It was at that moment that PO Falk utilized the taser device on the male, identified as § 87(2)(b). PO Falk clarified that he only used the device once on the lower leg of § 87(2)(b). There were no officers straddled on him at the time.

PO Falk stated that the decision to taser § 87(2)(b) was his alone; he did not confer with Sgt. Santana. The decision was split second and made in order to subdue the individual before he or any officers were seriously injured. PO Falk stated that he did not observe an officer use an asp at the scene, and he categorized the amount of force used at the scene by the officers of the 43rd Precinct as moderate and not excessive in any way. PO Falk stated that even after being tasered and handcuffed, § 87(2)(b) "started up again," mostly yelling and screaming at his wife and blaming her for being arrested. PO Falk did not hear him allege that he had been struck nor yell out in pain. He did not observe any officer lift him from the handcuff chain or knee him in the head, nor did he see an officer punch § 87(2)(b) in the jaw.

PO Falk did not observe any officer club the second individual, or use a radio or baton to inflict blows. It seemed there were a handful of onlookers at the scene but none were getting involved and most seemed to stay away from the incident location. PO Falk offered that the location is problematic, as the clubs and bars let out at 4:00 AM and frequently (on weekends) fights and bar brawls spill out into the street.

## DT Szachacz

DT Szachacz is a § 87(2)(b)-old White male who is 5'9" tall and weighs 160 lbs. His memo book entry for the incident was limited to: 0330: # 9779 (enc. 36b). He prepared a call out report for case # 9779 and noted they received the request and arrived at 3:30. § 87(2)(b) and two others were apprehended. In the details he wrote, "A-3 did p/u (pick up) 43 pct officers trying to effect a lawful arrest on street. Perp started to punch & kick at officers & required to be handcuffed. Taser (stun device) used once to rear leg. Perp did fall to ground & placed in custody. 3 under arrest by 43. 1 43 officer going inj'd to § 87(2)(b) (enc. 35a).

He was interviewed at the CCRB on May 11, 2004 (enc. 36 a-e). He estimated that there was a crowd of about 30 people and that the bars were about to start letting out at 4:00 when they arrived. There was a full-blown "melee" which included officers trying to tackle § 87(2)(b) to the ground as he clung on to roll down gate belonging to a store. About six officers were wrestling § 87(2)(b) who was punching and kicking. He was resisting to the point where the officers clearly needed the assistance of ESU to affect the arrest. He heard one of the officer's yell "try to get him to the ground" and then he heard his partner say "Everybody get off him, I'm gonna taser him." DT Szachacz claimed that if it weren't for the taser, it would have taken a lot more officers to bring § 87(2)(b) down and the taser prevented more officers from possibly being hurt. To his knowledge the device was only used once.

Minutes later he heard officers direct § 87(2)(b) to put his hands behind his back and another struggle ensued. He denied seeing an officer punch § 87(2)(b) directly in the jaw and he did not see an officer using an asp or their radio to inflict blows on either § 87(2)(b) or § 87(2)(b). In his estimation the level of resistance was very high, and § 87(2)(b) was very angry. DT Szachacz claims that he observed the arrest intermittently as he watched the other block for the club patrons. Dt. Szachacz did not interact with either § 87(2)(b) or § 87(2)(b) after the incident. PO Falk returned to the precinct to obtain information for the ESU report, but didn't interact with any of the arrested individuals while there.

## PO Harsch

PO Eric Harsch is a § 87(2)(b) old white male who is 5'9" tall and weighs 185 lbs. He noted in his memo book that on December 21, 2003 that at 0320 there was a 10-85 condition at Thierot and Westchester Avenues (enc. 37b).

He was interviewed at the CCRB on March 23, 2004 (enc. 37 a-d). When he and PO O'Dwyer responded, Sgt. Santana, PO Romero, PO Laschet and a female officer were trying to handcuff § 87(2)(b). PO O'Dwyer helped arrest § 87(2)(b) while PO Harsch was doing crowd control. He later admitted that there were only a few onlookers at the scene. PO Harsch denied seeing ESU at the scene and he denied observing any officer punching, kneeling or tasing anyone.

#### **Sgt. Milano**

Sgt. Milano is a § 87(2)(b) -old white male who is 5'6" tall and weighs 210 pounds. His memo book indicates he was assigned to "desk duty" on December 21, 2003 (enc. 39b). He also made command log entries (enc. 38a) relating to the arrests of § 87(2)(b) and § 87(2)(b) wherein he noted that PO Romero was the arresting officer and § 87(2)(b) and § 87(2)(b) were "slight intox." He noted in the remarks section for § 87(2)(b) that she made a phone call at 6:30 to her brother § 87(2)(b). In the remarks section for § 87(2)(b) he noted that he had been "stunned by ESU & Capt. Davidson notified. Also slight to tooth ACD #." In the margin he noted "strip search as per Sgt. Milano. Possible cuff key, male other have a cuff key, male ask to go to hosp, possible escape risk."

Sgt. Milano was interviewed at the CCRB on May 11, 2004 (enc. 39 a-d). He testified that § 87(2)(b) and § 87(2)(b) were brought in to the precinct and he made the pertinent entries in the command log regarding their arrests (enc. 38a). Aside from a scratch he observed on § 87(2)(b) there were no visible injuries on any of the prisoners. They were all screaming and yelling and Sgt. Milano described them as being intoxicated but not totally drunk. § 87(2)(b) was the only one of the three who complained of physical force. He stated that his face hurt and that the officers had beaten him up and tasered him.

Sgt. Milano testified that a handcuff key was found during a search of § 87(2)(b) and he subsequently authorized a strip search of § 87(2)(b). Another officer was present during the search, which took place in the bathroom of the precinct. Sgt. Milano rationalized that after finding the handcuff key on § 87(2)(b) he believed § 87(2)(b) could be a flight risk given his pending trip to the hospital.

Sgt. Milano interacted with § 87(2)(b) several times beginning with her repeated calls for his attention. He responded § 87(2)(b), § 87(2)(f)

Although the sergeant admitted to expressing disdain for § 87(2)(b) making him out to be the "bad" guy, he denied making any discourteous or offensive comments about her being beaten. Sgt. Milano added that in April, § 87(2)(b) was arrested for assaulting § 87(2)(b) and he stated that he § 87(2)(b) "tuned her up really well". When § 87(2)(b) was brought in, he carried on about how it didn't matter he was being arrested because he made a complaint against all of them and was going to sue them.

#### **PO Mendez**

PO Mendez is a § 87(2)(b) -old Hispanic male. He had the following memo book entry: 0500- Hospital transport, 0750 transport back to 43<sup>rd</sup> PCT (enc. 41b).

PO Mendez was interviewed at the CCRB on January 20, 2005 (enc. 41 a-d). On December 21, 2005, he was working with PO Ortiz as sector A. At about 0500 hours, Sgt. Milano called him and his partner back to the command to transport a sick prisoner to the hospital. The prisoner, later identified as § 87(2)(b) was complaining of a toothache. PO Mendez did not recall what if any information Sgt. Milano provided him or his partner about § 87(2)(b)'s arrest. He also was unable to describe § 87(2)(b)'s demeanor, or if he was still intoxicated. PO Mendez vaguely recalled that § 87(2)(b) was talkative, and that he spoke of boxing. PO Mendez did not observe any injuries and, aside from the toothache, knew of no other ailments that were bothering § 87(2)(b).

He did not recall a strip search being conducted. PO Mendez recalled hearing § 87(2)(b)'s girlfriend screaming from her cell at the precinct. She was cursing and screaming, but PO Mendez did not understand what she was saying and denied seeing or hearing her interact with Sgt. Milano. He denied that while at the command he heard Sgt. Milano refer to either § 87(2)(b) or § 87(2)(b) as "spics".

They took him to the hospital and waited approximately an hour to an hour and a half. When the doctors finally examined him, they stated that there was nothing else they could do because they were not dentists. Afterwards, they transported § 87(2)(b) back to the command.

#### **PO Ortiz**

PO Ortiz is § 87(2)(b)-old Hispanic male. PO Ortiz was interviewed at the CCRB on March 15, 2004 (enc. 40 a-d). He testified that he and his partner, PO Mendez were called back to the command by Sgt. Milano and were ordered to transport § 87(2)(b) to § 87(2)(b). § 87(2)(b) seemed intoxicated and was swearing and yelling. PO Ortiz observed several abrasions and minor cuts to § 87(2)(b)'s cheek and face. PO Ortiz stated that he, his partner and Sgt. Milano conducted a strip search of § 87(2)(b) prior to his transport. The search took about 15 minutes and nothing was recovered from his person. PO Ortiz denied that while in the back room, Sgt. Milano kicked a tooth across the room.

At the hospital, § 87(2)(b) showed the doctor two red marks on his leg. He bragged about how many officers it took to bring him down and added that he knew martial arts and could have really hurt any one of the officers anytime he wanted.

#### **PO Korabel**

PO Korabel is a white male who is 5'9" and weighs 210 pounds. He was interviewed at the CCRB on April 12, 2004 (enc. 42 a-e). Though police documents list him as working a sector detail, he remained in the command processing an arrest that took place earlier. He observed the three prisoners when they were brought in the precinct and did not observe any injuries on them. He denied being present during the strip search of § 87(2)(b) and denied Sgt. Milano made discourteous or offensive comments to § 87(2)(b).

§ 87(2)(b) is a Hispanic female and she provided a telephonic statement to the CCRB on July 26, 2004. According to § 87(2)(b) she and her boyfriend, § 87(2)(b) were arguing at club Riddler's because she was dancing with another male. Her boyfriend then pushed her and she fell on the ground. Shortly afterwards she and her boyfriend were escorted out of the club, and they walked home. § 87(2)(b) stated that it was between 12:30 am to 1:00 am when they left. § 87(2)(b) claimed that she was there with her boyfriend yet she was unable to provide his last name. She claimed that § 87(2)(b) and § 87(2)(b) were wearing similar clothing, but could not provide an accurate description of what § 87(2)(b) wore. She claimed she didn't think it was her business to inquire about § 87(2)(b) and § 87(2)(b) fighting and she maintained she has no knowledge of the incident that occurred after she and her boyfriend left.

#### **EMT § 87(2)(b) and EMT § 87(2)(b)**

EMT § 87(2)(b) was interviewed at the CCRB on April 14, 2004 (enc. 22 a-b). Although EMT § 87(2)(b) and his partner, EMT § 87(2)(b) responded to the 43rd Precinct to provide medical attention to prisoners being "detained there", he had no independent recollection of the incident and was only able to provide limited testimony after reviewing the ambulance call report. They received a call at 0408 hours and arrived at 0412 hours to the 043 precinct. EMT § 87(2)(b) was shown photographs of § 87(2)(b) yet they failed to refresh his recollection.

EMT § 87(2)(b)'s first statements were the three medical treatment of prisoner reports that she prepared 920 a-d). She indicated that § 87(2)(b) complained of "pain to the face and a missing tooth." She also noted he was "tasered by ESU for resisting arrest." For § 87(2)(b) she noted that § 87(2)(b) had trouble breathing, had a laceration on the back of her head, and was treated at the 43 Precinct because she refused medical assistance. Likewise § 87(2)(b) had a laceration to his right hand but refused medical assistance. EMT § 87(2)(b) was also interviewed at the CCRB on April 14, 2004 (enc. 21 a-b). After reviewing the reports, EMT § 87(2)(b) was unable to provide pertinent testimony and she had no independent recollection of the incident.

#### **Medical Records (enc. 49a-g)**

According to the doctor's report at § 87(2)(b) § 87(2)(b) was a § 87(2)(b) old male who was complaining of a fractured jaw after being hit with a baton. He had mild pain in the jaw with minimal swelling in the upper jaw and no tenderness in the lower jaw. The X-rays showed no dislocation or fracture. He was released with instructions to take Tylenol. There was no mention of his having cracked or broken a tooth.

#### **Pre-Arrest Screening Forms**

The form for § 87(2)(b) indicates he had a superficial traumatic injury (STI) to his face and legs. According to the visual assessment he had a hematoma on the right side of his head, a scratch to his forehead and was tasered on the right

calf, left thumb and upper back (enc. 50c). § 87(2)(b) had a superficial traumatic injury to the head: scratches on the right of her face and complains of pain to the scalp (enc. 50a). § 87(2)(b) had no visible injuries (enc. 50f).

### Arrests Photos

The arrest photo of § 87(2)(b) shows a very small mark on his right cheek (enc. 46b). Neither § 87(2)(b) nor § 87(2)(b)'s photos show any injuries (encs. 46a & 46c).

### IAB photos

The IAB photos of the 3 civilians are not marked and hence it is unclear to which individual they relate. However, the photos of § 87(2)(b)'s mouth indicate poor dental hygiene.

### Police Documents

The roll call indicates that Sgt. Milano was the desk supervisor while Sgt. Santana was the conditions supervisor. Officers assigned to "conditions", which was social club enforcement, included PO Jacobberger and PO Kuttel, both white males, PO Gonzalez, an Hispanic male and PO Rhone, a black male who has been on indefinite military leave since February 2004. PO Diedrick, a black male, is listed as the sergeant's operator. Only two females are on duty: 1) PO Torres, a Hispanic female partnered with PO Anthony, a black Hispanic male assigned sector JK and 2) PO Edwards, a black female partnered with PO Williams, whose pedigree information is unavailable because he has resigned from the department, assigned to sectors ABC. Likewise there is no record of Xiomara Cruz (Sgt. Santana's alleged partner) on the roll call. The command advised that they had no line of duty report relating to PO Romero.

### Civil Suits

There is no record of any of the parties having filed a civil law suit.

### Dispositions of Arrests

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Criminal Conviction record of § 87(2)(b) and § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### CCRB Histories of Subject Officers

None of the officers named as subject officers in this case have any substantiated CCRB allegations in their history.

## Conclusions and Recommendations

### Officer Identification

Officer identification was based almost exclusively on officer testimony. Because both Sgt. Santana and PO Romero acknowledged using physical force against § 87(2)(b) allegations are being pleaded against them. Inasmuch as § 87(2)(b) was not available to view photos, a chokehold and another physical force (punch) allegation are pleaded against an officer. PO Falk admitted to using the taser and is therefore named as the subject officer. Because the investigation could not determine if PO Torres or PO § 87(2)(b) used force against § 87(2)(b) this allegation is likewise being pleaded against an officer. PO Laschet is listed as a subject officer because he confirmed that he used force against § 87(2)(b) § 87(2)(b) and § 87(2)(b) identified Sgt. Milano by name as being discourteous and making offensive remarks. He also admitted to directing the strip search of § 87(2)(b) and is thus named as the subject officer.

### Undisputed Facts

§ 87(2)(b) and § 87(2)(b) had just left a nightclub when § 87(2)(b) was stopped by officers for having assaulted § 87(2)(b). When § 87(2)(b) resisted arrest, § 87(2)(b) and § 87(2)(b) tried to intervene. § 87(2)(b) was ultimately tasered; § 87(2)(b) and § 87(2)(b) were also arrested. At the precinct, § 87(2)(b) was strip searched and removed to the hospital.

### Disputed Facts

§ 87(2)(g)

### Credibility

§ 87(2)(g)

For instance, in his IAB statement, § 87(2)(b) said a white officer punched him while in his CCRB statement he said the officer was black. § 87(2)(b) told IAB that a black male officer punched § 87(2)(b) in the face but told CCRB that an officer punched him in the hand and hit him in the back of the head. § 87(2)(b) said an officer used a chokehold on him; § 87(2)(b) never made this allegation. § 87(2)(b) told IAB that a female officer punched his wife in the face; he told CCRB that the female officer smacked her in the face and a male officer hit her over the head with a flashlight or baton. § 87(2)(b) told IAB that the Hispanic female officer struck the back of § 87(2)(b) head with her hand; she told CCRB that the female officer pushed her and then slapped her face. In a May 14, 2004 phone call, she said an officer hit her with a baton.

§ 87(2)(g)

§ 87(2)(g)

Sgt. Santana asserted that a number of officers had to pull § 87(2)(b) off the fence, causing them to all land on top of § 87(2)(b). Because § 87(2)(b) was still refusing to give up his hands, an officer then tasered him. Finally PO Romero then straddled him to handcuff him. PO Falk and Dt. Szachacz recalled § 87(2)(b) fighting and punching before other officers brought him to the ground where he continued to violently resist. Dt. Szachacz stated that PO Falk directed officers to get off § 87(2)(b) because he was going to taser him. PO Romero, on the other hand, stated that § 87(2)(b) fell when he (PO Romero) pulled his legs out. PO Romero then fell on top of § 87(2)(b) and directed him to give up his hands. He did not recall § 87(2)(b) being tasered.

§ 87(2)(g)

§ 87(2)(g)

### Determination of Fact

The police were called after § 87(2)(b) hit § 87(2)(b) over the head with a bottle inside the nightclub. § 87(2)(b) and his wife left the club but patrons pointed them out to the responding officers. Sgt. Santana and his female partner were the first officers to arrive. Sgt. Santana pushed § 87(2)(b) up against a store gate and attempted to handcuff him. § 87(2)(b) held on to the gate and did not release his hand. Within minutes other units arrived. PO Romero and others used force to break § 87(2)(b)'s hold of the gate and all landed in a pile on top of § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation A: Sgt. Jay Santana used physical force against § 87(2)(b)**

§ 87(2)(b) § 87(2)(g) told medical personnel he had been struck by a baton; he told CCRB and IAB that an officer punched him in the jaw and another one kned him in the head. Sgt. Santana who was the first officer to encounter § 87(2)(b) admitted to pushing him against a gate, using an asp to try to pry § 87(2)(b)'s hand free and with the assistance of other officers, tackling § 87(2)(b) to the ground. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B: An officer used a chokehold against § 87(2)(b)**

§ 87(2)(b) indicated a white male officer who was 5'8 and weighed 200 pounds put him in a chokehold when he first stopped § 87(2)(b). § 87(2)(b) saw an officer use a chokehold on § 87(2)(b) later in the encounter, after § 87(2)(b) had been arrested and was lying on the ground. § 87(2)(b) did not make mention of a chokehold although she was protesting the treatment of her husband. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation C: An officer used physical force against § 87(2)(b)**

§ 87(2)(b) maintained in his CCRB and IAB accounts that an officer punched him in the jaw and as a result he lost a tooth. In his IAB statement he alleged the officer was white and balding; in his CCRB statement he described the officer as being a tall black male. He told a health care worker that he was hit by a baton. § 87(2)(g)

§ 87(2)(b)

**Allegation D: PO Angel Romero used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that after he fell to the ground, an officer straddled him, pulled on the chain of his cuffs and kned him in the head. PO Romero stated that he caused § 87(2)(b) to fall to the ground by pulling his legs out from under him and then landed on top of § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation E: PO William Falk tasered § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) alleged that he was tasered after he had been handcuffed while Sgt. Santana, PO Falk and Dt Szachaez maintained he was tasered before being restrained. However, Sgt. Santana indicated the taser subdued him while PO Falk indicated § 87(2)(b) still carried on after being tasered. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

**Allegation F: Officers used physical force against § 87(2)(b)**

§ 87(2)(b) gave varying accounts of the force used against her. § 87(2)(g)

**Allegation G: An officer struck § 87(2)(b) with a blunt instrument.**

§ 87(2)(g)

**Allegation H: PO Laschet used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that he was struck on the back three times and tasered before being arrested. § 87(2)(g)

**Allegation I: Sgt. Milano made remarks to § 87(2)(b) and § 87(2)(b) based upon ethnicity.**

**Allegation J: Sgt. Milano acted discourteously toward § 87(2)(b)**

§ 87(2)(g)

**Allegation K: Sgt. Milano authorized the strip search of § 87(2)(b)**

According to Patrol Guide 208-05 the desk officer decides and is responsible for the conduct of a strip search. An officer must have reasonable suspicion that a person is concealing weapons, contraband or evidence that may not be discovered by previous search methods. § 87(2)(g)

§ 87(2)(b) a handcuff key was found in § 87(2)(b) pocket and § 87(2)(b) was going to be transported to the hospital. The U.S. Supreme Court in case *United States v. Cortez*, 449US 411,417,101 S.Ct. 690, 695 (1981) held that a police officer must have “a particularized and objective basis for suspecting the **particular person** of criminal activity.” § 87(2)(g)

*Investigator Annie De Las Nueses conducted the investigation, but the report was written by Manager Dianne Weisheit.*

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: